



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date:	02/21/13	Bill No:	Assembly Bill 718
Tax Program:	Sales and Use Tax	Author:	Melendez
Sponsor:	Author	Code Sections:	RTC 6384.5
Related Bills:		Effective Date:	Upon enactment, but operative 04/15/14

BILL SUMMARY

This bill provides for a one-day, 6.5% state rate sales tax holiday on April 15, 2014, and recurring on every April 15 thereafter.

ANALYSIS

CURRENT LAW

Except where the law provides a specific exemption or exclusion, California's Sales and Use Tax Law¹ imposes the sales tax on retailers for the privilege of selling tangible personal property at retail in this state. California law also imposes the use tax on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer.

The statewide sales and use tax rate (7.50%) is made up of the following components²:

Rate	Jurisdiction	Purpose/Authority
3.6875%	State (General Fund)	General state purposes (RTC Sections 6051, 6201)
0.25%	State (General Fund)	General state purposes (RTC Sections 6051.3, 6201.3)
0.25%	State (Fiscal Recovery Fund)	Repayment of the Economic Recovery Bonds (RTC Sections 6051.5 and 6201.5, operative 7/1/04)
0.50%	State (Local Public Safety Fund)	Local public safety services (Section 35, Article XIII, State Constitution)
0.25%	State (Education Protection Account)	Supports school districts, county offices of education, charter schools, and community college districts (Section 36, Article XIII, State Constitution, operative 1/1/13 to 12/31/16)
0.50%	State (Local Revenue Fund)	Local health and welfare programs (RTC Sections 6051.2 and 6201.2)

¹ Part 1 of Division 2 of the Revenue and Taxation Code (RTC) (commencing with Section 6001).

² The additional transactions and use taxes, also known as district taxes, levied by various local jurisdictions are not reflected in this chart.

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Rate	Jurisdiction	Purpose/Authority
1.0625%	State (Local Revenue Fund 2011)	County public safety programs (RTC Sections 6051.15 and 6201.15)
1.00%	Local (City/County) 0.75% City and County 0.25% County	(RTC Section 7203.1, operative 7/1/04) County transportation General city and county operations
7.50%	Total Statewide Rate	

Current exemptions are generally based on the nature or type of tangible personal property sold, such as the prescription medicine exemption. Currently, there are no general exemptions for certain time periods or specific dates.

PROPOSED LAW

This bill provides an exemption for the state portion of the sales tax on the sale of tangible personal property during a one-day period beginning at 12:01 a.m. on April 15, and ending at midnight on that same day.

The exemption would *not* apply to any tax levied pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the Transactions and Use Tax Law.

As a tax levy, the bill takes effect immediately, but becomes operative on April 15, 2014.

LEGISLATIVE HISTORY

Over the years, many “sales tax holiday” bills have been introduced to provide a sales tax exemption for certain types of merchandise, all of which failed to pass. These measures include:

Year	Bill	Summary
2011	AB 1007 (Cook)	State tax exemption on the sale of “qualified back-to-school products,” for \$100 or less, during a three day period in August 2012, and every following year until January 1, 2016.
2008	AB 1120 (Tran)	State and local tax exemption for the sale of “qualified disaster preparedness products,” as specified, during a seven-day period in October of each year until January 1, 2012.
2006	AB 2089 (Tran)	State tax exemption for the sale of “qualified disaster preparedness products,” as specified, during a nine-day period in October of each year until January 1, 2010.
2006	AB 548 (Garcia)	State and local tax exemption for the sale of any article of clothing, clothing accessories, or footwear for \$100 or less, school supplies for \$500 or less, and personal computers for \$1,000 or less, during a four-day period in August 2006.
2002	AB 1977 (Strickland)	State tax exemption for specified computer products purchased for \$2,000 or less, during a 3-day period at the end of August or the beginning of September.
2002	AB 2056 (Zettel)	State tax exemption for “qualified personal computer products,” during a 2-day period in August.
2001	AB 1199 (Cardenas)	State and local tax exemption for clothing and footwear purchased for \$200 or less, and computers and related accessories for \$1,000 or less, during the three-day period August 24 – 26, 2001.
2001	AB 1185 (Mountjoy)	State tax exemption for clothing and footwear purchased for \$200 or less, during a one-week period in August.

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Year	Bill	Summary
1999	AB 944 (Cardenas)	State tax exemption for clothing and footwear purchased for \$100 or less, during the three-day period August 24 -26, 2001.
1999	AB 1320 (Ashburn)	State and local tax exemption for tangible personal property purchased for \$500 or less during the week of January 17 to January 23, inclusive, starting in 2000, and continuing until 2004.

COMMENTS

- 1. Sponsor and Purpose.** The author is sponsoring the bill to give a tax break to consumers and help stimulate retail sales during a normally slow sales period. According to the author's office, this bill will reduce prices, thus promoting consumer spending and economic stimulation. Rather than focusing economic stimulus efforts from the top down, with large government spending programs, the author aims to concentrate the stimulus efforts from the bottom up, directly with the consumers.
- 2. Exemption applies to sales tax only.** This bill exempts sales of tangible personal property from the sales tax, but not the use tax. Therefore, California consumers ordering these items from out-of-state, Internet, and mail order retailers would remain liable for the use tax on property purchased during the one-day period.
- 3. The bill does not exclude any tangible personal property.** Any item of tangible personal property would be eligible for the 6.5% sales tax exemption. There is no selling price dollar threshold. The exemption applies to appliances, vehicles, motorboats, and airplanes. Business and personal use purchases would be equally exempt.
- 4. Exemption will not apply to next day merchandise exchanges and rain checks.** Under current law, merchandise exchanges are considered two separate transactions: a rescission of the original sale and a sale of the replacement merchandise. For example, if a customer purchases a 32-inch flat-panel television and exchanges the television for a 55-inch Smart television, the transaction is regarded as a separate sale of the Smart television and a rescission of the original sale of the flat-panel television. The retailer is allowed to deduct from his or her taxable sales an amount for the sales price of the flat-panel television, and is also required to include in his or her taxable sales amount, the sales price of the Smart television. Under the proposed holiday period, if the flat-panel television is purchased during the sales tax holiday period, and is exchanged for the Smart television *after* the holiday period, the proposed exemption would not apply to the Smart television, since that transaction occurred after the exempt holiday period. This may result in reporting errors by retailers and added customer inquiries and confusion.

Rain checks similarly cause confusion. A retailer's rain check does not constitute a sale. Therefore, a rain check redeemed for taxable property outside the proposed holiday period would not be eligible for the exemption.

- 5. Partial exemptions complicate administration.** Currently, most sales and use tax exemptions are applied to the total applicable sales and use tax. However, a few partial exemptions exist in which only the state tax portion of the sales and use tax rate is exempted, such as the farm equipment and teleproduction equipment exemptions. These partial exemptions are difficult for both retailers and the BOE. They complicate both return preparation and processing. Moreover, errors attributable to these partial exemptions occur frequently. This results in additional return processing workload for the BOE.
- 6. Other states.** Sixteen states will hold a sales tax holiday in 2013: Alabama, Arkansas, Connecticut, Georgia, Iowa, Louisiana, Maryland, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. Eligible items include clothing, computers, school supplies, energy star products, firearms and hunting supplies, hurricane preparedness items, and severe weather preparedness kits. For most states, the exemption applies to specified items. Most states also place dollar limits on the amount exempt from sales tax.

Only Louisiana exempts most individual tangible personal property purchases. The exemption applies to the first \$2,500 spent on individual items of tangible personal property for non-business use. Vehicles and meals are excluded from the exemption.

COST ESTIMATE

The BOE would incur costs to notify retailers, modify tax returns, prepare a special publication, develop a new regulation, program systems, and answer taxpayers' inquiries. An estimate of these costs is pending.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

California's taxable sales totaled \$498.5 billion in FY 2010-11. The Department of Finance's (DOF) forecast of statewide taxable sales assumes that taxable sales will increase by approximately 22.8 percent to an estimated \$612.3 billion by FY 2013-14. Current law provides a state exemption (5%) for sales tax on gasoline. This bill exempts sales of tangible personal property from the sales tax, but not the use tax. Accordingly, taxable sales figures have been adjusted to subtract taxable measure³ on gasoline sales and use taxes.

Based on other states sales tax holidays, we adjusted taxable measure on large ticket items such as vehicles, furniture, appliances, and electronic products. We assume that purchases of these items would increase by 50% each April 15, as experienced by other states. The adjusted taxable sales are \$594.1 billion for FY 2013-14, \$638.7 billion for FY 2014-15, and \$681.4 billion for FY 2015-16. One day's taxable sales for April 15, 2014 would be \$1.63 billion (\$594.1 billion/365); \$1.75 billion for April 15, 2015 (\$638.7 billion/365); and \$1.87 billion (\$681.4 billion/365) for April 15, 2016.

³ Taxable measure represents the gross receipts from sales of gasoline subject to sales and use tax.

REVENUE SUMMARY

The state (6.5%) revenue loss from exempting sales of tangible personal property during the one-day period is:

- April 15, 2014: \$106 million (\$1.63 billion X 6.5%).
- April 15, 2015: \$114 million (\$1.75 billion X 6.5%).
- April 15, 2016: \$121 million (\$1.87 billion X 6.5%).

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